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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/765,782      | 01/19/2001  | Guido M. Campagna    | (AC 055) ITT-446-B  | 1375             |

7590 01/15/2003

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EXAMINER

HOOK, JAMES F

ART UNIT

PAPER NUMBER

3752

DATE MAILED: 01/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

|                                      |                                       |
|--------------------------------------|---------------------------------------|
| Application No.<br><b>09/765,782</b> | Applicant(s)<br><b>Campagna et al</b> |
| Examiner<br><b>James F. Hook</b>     | Art Unit<br><b>3752</b>               |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1)  Responsive to communication(s) filed on Oct 31, 2002
- 2a)  This action is FINAL.      2b)  This action is non-final.
- 3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.
- 4)  Claim(s) 1-14 and 21-31 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5)  Claim(s) \_\_\_\_\_ is/are allowed.
- 6)  Claim(s) 1-14 and 21-31 is/are rejected.
- 7)  Claim(s) \_\_\_\_\_ is/are objected to.
- 8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9)  The specification is objected to by the Examiner.
- 10)  The drawing(s) filed on \_\_\_\_\_ is/are a)  accepted or b)  objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12)  The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All b)  Some\* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a)  The translation of the foreign language provisional application has been received.
- 15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1)  Notice of References Cited (PTO-892)      4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)      5)  Notice of Informal Patent Application (PTO-152)
- 3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_      6)  Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-14 are rejected under 35 U.S.C. 102(b) as being anticipated by Iorio (223). The patent to Iorio discloses the recited metal layer tube comprising a metal tube 52, a zinc layer 54 bonded to the metal tube, where the zinc layer can be a zinc plating or other alloys of zinc, a surface treatment layer 56 of chromate or phosphate, a priming layer 58 which is made of a nylon material which inherently is a material that is "capable" of being sprayed on where Iorio doesn't state how layer 58 is applied specifically, and a first and second polymeric layers 60 and 62, where additional layers can be provided if desired, where the thicknesses and materials claimed are disclosed in the reference including using an ionomer in nylon 12.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 23-31 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iorio (223) in view of Moyle. The reference to Iorio et al discloses the recited metal layer tube comprising a metal tube 52, a zinc layer 54 bonded to the metal tube, where the zinc layer can be zinc plating or other alloys of zinc, a surface treatment layer 56 of chromate or phosphate, a priming layer 58 or a pretreatment layer that can be placed before the first polymeric layer, and first and second polymeric layers 60 and 62, where additional layers can be provided if desired, where the thicknesses and materials claimed are disclosed in the reference, and included also in the teachings of the reference are the method to form it which includes extruding the plastic layers. The reference to Iorio et al discloses all of the recited structure with the exception of including titanium dioxide in the primer layer. The reference to Moyle et al discloses the recited plastic coating composition used to coat metal tubes that can be provided with various types of metal and plastic layers, and where a primer layer can be provided that is a plastic material and can contain titanium dioxide to give the layer color and is a known additive to primer layers. It would have been obvious to one skilled in the art to modify the primer layer in Iorio et al by providing titanium dioxide to give the primer layer color as suggested by Moyle et al.

5. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Iorio (223). The reference to Iorio discloses all of the recited structure with the exception of using a low viscosity

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nylon, however, such is considered an obvious choice of mechanical expedients. It would have been obvious to one skilled in the art to modify the nylon layer of Iorio to be made of a low viscosity nylon as such would only require routine skill in the art to use routine experimentation to arrive at optimum values to meet the needs of the user, and to make the layer more easily applied.

***Response to Arguments***

6. Applicant's arguments filed October 21, 2002 have been fully considered but they are not persuasive. The arguments are mainly directed at the new language added to the claims which is rendered moot in the case of claim 21-31, however, with respect to the addition to claim 1 that the primer layer being "capable" of spray application, it is considered that the nylon material used inherently is capable of spray application as such is just a method of applying which also has little patentable weight in an article claim. Therefore, since the nylons are capable of spray application, in absence of any other claim language, the primer layer of Iorio is considered capable of being applied by spray application.

***Conclusion***

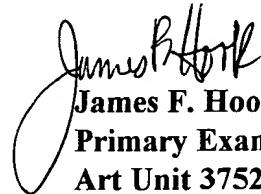
7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to James Hook whose telephone number is (703) 308-2913.

J. Hook  
January 13, 2003

  
**James F. Hook**  
**Primary Examiner**  
**Art Unit 3752**